

## Message Text

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D/LOS:GTAFT  
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EA/ANP:WGALLAGHER

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TO AMEMBASSY BANGKOK IMMEDIATE  
INFO AMEMBASSY NEW DELHI PRIORITY  
AMEMBASSY CANBERRA PRIORITY  
AMEMBASSY WELLINGTON PRIORITY

C O N F I D E N T I A L STATE 172344

FOR DEPUTY SECRETARY FROM BRIZILL

E.O. 11652: XGDS

TAGS:PLOS, OVIP (CHRISTOPHER, WARREN)

SUBJECT:VISIT OF DEPUTY SECRETARY CHRISTOPHER - LAW OF THE  
SEA (LOS) BACKGROUND PAPER

1. ISSUE - THE THIRD UNITED NATIONS CONFERENCE ON THE LAW  
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OF THE SEA, WHICH BEGAN IN 1973 AND IN WHICH 150 COUNTRIES  
PARTICIPATE, IS SEEKING TO NEGOTIATE AN COMPREHENSIVE  
TREATY DEALING WITH THE OCEANS. AUSTRALIA IS VERY ACTIVE  
IN THE LOS CONFERENCE AND PLAYS AN IMPORTANT ROLE AS A  
MODERATE, HIGHLY COMPETENT AND EFFECTIVE PARTICIPANT  
BRIDGING THE GAP BETWEEN THE LARGEST INDUSTRIALIZED STATES  
AND THE DEVELOPING COUNTRIES. NEW ZEALAND PLAYS A CONS-

TRUCTIVE BUT LESS ACTIVE ROLE. THE UNITED STATES, AUSTRALIA AND NEW ZEALAND SHARE MOST OF THE SAME GOALS IN THE LOS MEETING. AUSTRALIA, IN PARTICULAR, HAS BEEN VERY HELPFUL IN ATTEMPTING TO FIND COMPROMISE SOLUTIONS TO THE OUTSTANDING ISSUES. THERE IS EVERY EXPECTATION THAT THIS CLOSE AND FRUITFUL COOPERATION WILL CONTINUE.

2. U.S. OBJECTIVES - THE UNITED STATES SEEKS A WIDELY ACCEPTABLE TREATY THAT PROTECTS AMERICAN INTERESTS IN: THE EXPLOITATION OF DEEP SEABED MINERALS (WHICH THE CONFERENCE NEGOTIATES IN COMMITTEE ONE); SECURITY ISSUES, FREEDOM OF NAVIGATION, AND COASTAL RESOURCES (COMMITTEE

TWO); MARINE SCIENTIFIC RESEARCH (MSR) AND ANTI-POLLUTION MEASURES (COMMITTEE THREE) AND A COMPULSORY DISPUTE SETTLEMENT PROCEDURE.

THE U.S. FAVORS A DUAL SYSTEM OF EXPLOITATION OF THE MINERAL RESOURCES OF THE SEABED--BY PRIVATE COMPANIES/ STATE ENTERPRISES AND INTERNATIONAL SEABED AUTHORITY. THE MINERALS OF CURRENT COMMERCIAL INTEREST ARE FOUND IN MANGANESE NODULES. THE U.S. ALSO FAVORS REASONABLE ORGANIZATIONAL AND FINANCIAL ARRANGEMENTS FOR THE PROPOSED INTERNATIONAL SEABED AUTHORITY AND ITS OPERATING ARM, THE ENTERPRISE.

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AS A MARITIME POWER, THE U.S. SEEKS TRADITIONAL HIGH SEAS FREEDOMS OF OVERFLIGHT AND NAVIGATION BEYOND A NARROW TERRITORIAL SEA AND TRANSIT PASSAGE THROUGH AND OVER STRAITS USED FOR INTERNATIONAL NAVIGATION. (THE ISSUE OF STRAITS IS VIEWED BY THE CONFERENCE AS BEING PRACTICALLY SETTLED AND IS SATISFACTORY TO THE U.S.) THE U.S., WHILE SUPPORTING BROAD JURISDICTION BY COASTAL STATES IN THE EEZ WISHES TO MAINTAIN HIGH SEAS FREEDOMS FOR OTHER USES OF THE ZONE. THE EEZ PROVISIONS IN THE NEW TEXT ARE A MARKED IMPROVEMENT OVER PREVIOUS TEXTS.

ON MARINE SCIENTIFIC RESEARCH, THE UNITED STATES DESIRES TO MINIMIZE IMPEDIMENTS TO RESEARCH IN THE EEZ. THIS IS A MINORITY VIEWPOINT SINCE MANY COASTAL STATES INSIST ON THE RIGHT TO FORBID COASTAL RESEARCH UP TO 200 MILES (THE PROPOSED EXCLUSIVE ECONOMIC ZONE--EEZ) FROM THEIR SHORES. THE U.S. SUPPORTS ONLY VERY LIMITED COASTAL STATE AUTHORITY REGARDING VESSEL POLLUTION IN THE EEZ.

THE UNITED STATES FAVORS A BROAD SYSTEM OF COMPULSORY

DISPUTE SETTLEMENT. (CDS)

3. AUSTRALIAN/NEW ZEALAND OBJECTIVES - BOTH AUSTRALIA AND NEW ZEALAND SUPPORT A DUAL SYSTEM OF EXPLOITATION OF THE MINERAL RESOURCES OF THE DEEP SEABED WHEREIN PRIVATE COMPANIES/STATE ENTERPRISES AND A PROPOSED INTERNATIONAL SEABED AUTHORITY WITH ITS ENTERPRISE WOULD BE WORKING.

THESE TWO COUNTRIES UNDERSTAND THE AMERICAN INSISTENCE ON THE RIGHT FOR NATIONAL COMPANIES TO ENGAGE IN SEABED MINING WHILE THEY ARE ALSO SYMPATHETIC TO THE CONCERNS AND ASPIRATIONS OF THE DEVELOPING COUNTRIES. BECAUSE

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NEITHER NEW ZEALAND NOR AUSTRALIA EXPECT TO BE INVOLVED IN DEEP SEABED MINING IN THE NEAR FUTURE, THEY ARE SEEN AS USEFUL QTE MIDDLEMEN UNQTE IN THE COMPLEX NEGOTIATIONS OF COMMITTEE ONE. AUSTRALIA, HOWEVER, DOES WISH TO PROTECT ITS INTERESTS AS A LAND-BASED MINERALS PRODUCER AND HAS BEEN, ACCORDINGLY, LESS THAN HELPFUL ON THE ISSUE OF SEABED PRODUCTION CONTROL.

AUSTRALIA AND TO A LESSER DEGREE NEW ZEALAND, HAVE BEEN EXTREMELY HELPFUL IN SUPPORTING AMERICAN PROPOSALS TO PREVENT THE 200 MILE EEZ FROM EVOLVING OVER TIME INTO THE FUNCTIONAL EQUIVALENT OF A TERRITORIAL SEA. THEY HAVE BEEN SUPPORTIVE ASSURING THE TREATY PROTECTS THE RIGHT TO CONDUCT MILITARY ACTIVITIES IN THE EEZ.

4. NEW ZEALAND AND AUSTRALIA ARE QTE BROAD MARGIN STATES UNQTE WITH THEIR CONTINENTAL SHELVES EXTENDING WELL BEYOND 200 MILES FROM THEIR SHORELINES. THE U.S. BELIEVES THAT A PRECISE DEFINITION SHOULD BE FOUND FOR DEFINING THE MARGIN WHERE IT EXTENDS BEYOND 200-MILES. THE U.S. HAS ALSO BEEN ADVOCATING REVENUE SHARING WITH DEVELOPING COUNTRIES FROM THE PROCEEDS OF THE EXPLOITATION OF THE CONTINENTAL SHELF WHERE IT EXTENDS BEYOND 200 MILES. AUSTRALIA HAS NOT SUPPORTED REVENUE SHARING BUT WILL PROBABLY ACCEPT IT IN THE FINAL ANALYSIS.

THIS IS PERHAPS THE ONLY NOTEWORTHY LOS DIFFERENCE BETWEEN THOSE COUNTRIES AND THE U.S.

BOTH COUNTRIES SUPPORT PROVISIONS FOR CDS.

5. ESSENTIAL FACTORS - A NEW INFORMAL COMPOSITE NEGOTIA-  
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TING TEXT WAS ISSUED BY THE CONFERENCE SECRETARIAT ON JULY 20, 1977. SOME SECTIONS (PARTICULARLY STATUS OF EEZ) ARE IMPROVED BUT THE DEEP SEABED ARTICLES DUE TO LAST MINUTE CHANGES MADE BY THE FIRST COMMITTEE CHAIRMAN PAUL ENGO (CAMEROON) ARE UNACCEPTABLE TO THE UNITED STATES AND OTHER INDUSTRIALIZED COUNTRIES, AND MUST BE CHANGED. THE CONFERENCE HAS AGREED TO RECONVENE IN GENEVA IN MARCH, 1978 TO CONTINUE ITS DISCUSSIONS.

6. POINTS TO BE MADE

--WE VERY MUCH APPRECIATE CONSTRUCTIVE ROLE PLAYED BY AUSTRALIA (NEW ZEALAND) AT THE CONFERENCE. IT HAS INDEED ADVANCED OUR WORK. OUR MUTUAL OBJECTIVES CAN BE MET IN A COMPREHENSIVE LOS TREATY.

--THE NEW INFORMAL COMPOSITE TEXT EVIDENCES REAL PROGRESS ON VITAL ISSUES RELATING TO INTERNATIONAL NAVIGATION AND OVERFLIGHT.

--AT THE SAME TIME, HOWEVER, THE TEXT SUBSTANTIALLY SETS BACK PROSPECTS FOR AGREEMENT ON AN INTERNATIONAL SEABED MINING REGIME AND THIS PART OF THE TEXT IS NOW FUNDAMENTALLY UNACCEPTABLE.

--SOME WAY MUST BE FOUND TO RESOLVE THE MOST SERIOUS PROCEDURAL PROBLEMS IN THE COMMITTEE ONE--DEEP SEABED--NEGOTIATIONS. THE U.S. WELCOMES AUSTRALIAN AND NEW ZEALAND'S SUGGESTIONS.

--(ON AN IF ASKED BASIS--U.S. WITHDRAWAL FROM THE LOS CONFERENCE) ANALYTICALLY, SUCH AN OPTION MUST BE CONSIDERED BUT, PERSONALLY SPEAKING, GREATER EMPHASIS SHOULD BE PLACED ON FINDING WAYS TO OVERCOME THE FIRST COMMITTEE IMPASSE. VANCE

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